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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,444	01/06/2005	Teruo Uchibori	SAEG103.003APC	2790

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KNOBBE MARTENS OLSON & BEAR LLP  
2040 MAIN STREET  
FOURTEENTH FLOOR  
IRVINE, CA 92614

EXAMINER
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GARRETT, DAWN L

ART UNIT	PAPER NUMBER
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1774

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	02/15/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 02/15/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com  
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# Office Action Summary

Application No.

10/520,444

Applicant(s)

UCHIBORI ET AL.

Examiner

Dawn Garrett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date: 1-6-05 1-6-05
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This application is a 371 of PCT/JP03/08574 filed 7/7/2003.

#### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The examiner notes the presence of the terminology “and/or” in claims 1 and 2. This terminology is indefinite as it is unclear whether the composition would perform the same with just one of the components or would it require both components to perform the intended function. The examiner suggests the following format; “A or B or mixtures thereof”.

#### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 5, 6, and 8-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Taylor (US 4,013,566). Taylor teaches flexible desiccant bodies (see title). The body may comprise desiccant material and an epoxy polymer matrix (see abstract) and may further comprise carbon black filler with regard to the “thermally conductive” material and claim 8 (see col. 5, lines 5-16). With regard to claim 5, the desiccant is contained in an amount of 10-90% by

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weight (see col. 8, lines 16-22). With regard to claim 6, the polymer is described as an epoxy (see abstract). The carbon black reads upon the carbon material of claim 8 (see col. 5, lines 5-

16). Claim 9 is included as a product-by-process claim. M.P.E.P. § 2113:

“Even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process.”

*In re Thorpe*, 227 USPQ 964, 966 (Fed. Cir. 1985)...

“The Patent Office bears a lesser burden proof in making out a case of *prima facie* obviousness for product-by-process claims because of their peculiar nature” than when a product is claimed in the conventional fashion.

*In re Fessman*, 180 USPQ 324, 326 (CCPA 1974).

Once the Examiner provides a rationale tending to show that the claimed product appears to be the same or similar to that of the prior art, although produced by a different process, the burden shifts to applicant to come forward with evidence establishing an unobvious difference between the claimed product and the prior art product. *In re Marosi*, 218 USPQ 289, 292 (Fed. Cir. 1983).

With regard to claim 10 the teaching of carbon black is considered to read upon the claim absent evidence otherwise. Recitation of a newly disclosed property does not distinguish over a reference disclosure of the article or composition claims. *General Electric v. Jewe Incandescent Lamp Co.*, 67 USPQ 155. *Titanium Metal Corp. v. Banner*, 227 USPQ 773. Applicant bears responsibility for proving that reference composition does not possess the characteristics recited in the claims. *In re Fitzgerald*, 205 USPQ 597, *In re Best*, 195 USPQ 430.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor (US 4,013,566) in view of Nikaido (US 5,300,858). Taylor teaches a molded desiccant article for an appliance, but fails to specifically teach the desiccant material incorporated into an organic electroluminescent device. Nikaido teaches it is desirable to include a desiccant material in an EL panel in order to avoid degradation of the device (see figures and text). It would have been obvious to one of ordinary skill in the art to have incorporated the desiccant material taught by Taylor into the EL devices taught by Nikaido, because one would expect the desiccant material to be similarly useful in removing moisture for the Nikaido devices.

8. Claims 1-6 and 8-16 are rejected under 35 U.S.C. 103(a) as being obvious over Kawaguchi et al. (6,673,436 B2).

The applied reference has a common inventors with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference

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under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). This rejection might also be overcome by showing that the reference is disqualified under 35 U.S.C. 103(c) as prior art in a rejection under 35 U.S.C. 103(a). See MPEP § 706.02(l)(1) and § 706.02(l)(2).

Kawaguchi et al. teaches moisture absorbing formed articles (see title) comprising a hygroscopic powder agent (see col. 2, lines 4-5), resin component (see col. 2, lines 13-19) and inorganic or metal material such as aluminum powder (see col. 4, lines 13-16) with regard to the “thermally conductive material”. Hygroscopic material may include CaO, BaO or SrO per claims 2 and 3 (see col. 2, lines 60-63). The hygroscopic agent is a powder having a specific surface area of not less than  $10\text{m}^2/\text{g}$  per claim 4 (see col. 2, lines 3-6). The hygroscopic agent is 30-95% by weight of the body per claim 5 (see col. 2, lines 9-13). Kawaguchi et al. teaches a variety of resinous materials per claim 6 (see col. 2, lines 13-19). With regard to claim 8, Kawaguchi teaches metal such as aluminum powder (see col. 4, lines 13-16). Kawaguchi et al. teaches molding and heating the components per claim 9 (see col. 4, lines 26-37). It is further noted that claim 9 is a product by process type of claim. With regard to claim 10 the teaching of metal powders is considered to read upon the claim (see col. 4, lines 9-18) absent evidence otherwise. Recitation of a newly disclosed property does not distinguish over a reference disclosure of the article or composition claims. *General Electric v. Jewe Incandescent Lamp Co.*, 67 USPQ 155. *Titanium Metal Corp. v. Banner*, 227 USPQ 773. Applicant bears responsibility for proving that reference composition does not possess the characteristics recited

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in the claims. *In re Fitzgerald*, 205 USPQ 597, *In re Best*, 195 USPQ 430. With regard to claim 11, Kawaguchi does not mention the density of the article, but since the same materials within the same amounts are claimed it would appear that the Kawaguchi article would have a similar density as claimed. Furthermore, the experimental modification of this prior art in order to ascertain optimum operating conditions fails to render applicant's claims patentable in the absence of unexpected results. *In re Aller*, 105 USPQ 233. A prima facie case of obviousness may be rebutted where the results of the optimizing variable, which is known to be result-effective, are unexpectedly good. *In re Boesch and Slaney*, 205 USPQ 215. With regard to claim 13, Kawaguchi et al. teaches the moisture absorbing bodies are used in electronic devices such as display units (see col. 1, lines 5-12). With regard to claims 14-16, the moisture absorbing body is located inside the housing of an electronic device (see col. 5, lines 22-43). Further with regard to claim 14, the disclosed display device is considered to have electrodes, since all electroluminescent devices comprises electrodes in order to be operational. Although Kawaguchi et al. does not *exemplify* a molded article having metal added to the composition, it would have been obvious to one of ordinary skill in the art at the time of the invention to have formed a molded article as claimed, because Kawaguchi et al. teaches all of the required materials.

9. Claims 1-3, 5, 6, 8-are rejected under 35 U.S.C. 103(a) as being obvious over Kawaguchi et al. (JP 2001-354780). Kawaguchi et al. teaches moisture absorbing formed articles (see title) comprising a hygroscopic powder agent (see abstract), resin component (see abstract) and inorganic or metal material such as aluminum powder (see par. 21) with regard to the "thermally conductive material". Hygroscopic material may include CaO, BaO or SrO per

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claims 2 and 3 (see par. 12). The hygroscopic agent is 30-85% by weight of the body per claim 5 (see par. 15). Kawaguchi et al. teaches a variety of resinous materials per claim 6 (see par. 14).

With regard to claim 8, Kawaguchi teaches metal such as aluminum powder (see par. 21).

Kawaguchi et al. teaches molding and heating the components per claim 9 (see par. 7 and entire document). It is further noted that claim 9 is a product by process type of claim. With regard to claim 10 the teaching of metal powders is considered to read upon the claim (see par. 21) absent evidence otherwise. Recitation of a newly disclosed property does not distinguish over a reference disclosure of the article or composition claims. *General Electric v. Jewe Incandescent Lamp Co.*, 67 USPQ 155. *Titanium Metal Corp. v. Banner*, 227 USPQ 773. Applicant bears responsibility for proving that reference composition does not possess the characteristics recited in the claims. *In re Fitzgerald*, 205 USPQ 597, *In re Best*, 195 USPQ 430. With regard to claim 11, Kawaguchi does not mention the density of the article, but since the same materials within the same amounts are claimed it would appear that the Kawaguchi article would have a similar density as claimed. Furthermore, the experimental modification of this prior art in order to ascertain optimum operating conditions fails to render applicant's claims patentable in the absence of unexpected results. *In re Aller*, 105 USPQ 233. A prima facie case of obviousness may be rebutted where the results of the optimizing variable, which is known to be result-effective, are unexpectedly good. *In re Boesch and Slaney*, 205 USPQ 215. With regard to claim 13, Kawaguchi et al. teaches the moisture absorbing bodies are used in electronic devices such as display units (see par. 2). With regard to claims 14-16, the moisture absorbing body is located inside the housing of an electronic device (see par. 26-27). Further with regard to claim 14, the disclosed display device is considered to have electrodes, since all electroluminescent



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devices comprises electrodes in order to be operational. Although Kawaguchi et al. does not *exemplify* a molded article having metal added to the composition, it would have been obvious to one of ordinary skill in the art at the time of the invention to have formed a molded article as claimed, because Kawaguchi et al. teaches all of the required materials.

10. Claims 1-7, 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shigeta et al. (US 5,078,909). Shigeta et al. teaches moisture-absorbent compositions and molded items (see title). The compositions comprise thermoplastic resin (see col. 2, lines 63-68) and desiccants such as magnesium sulfate or calcium oxide per claims 2 and 3 (see col. 2, lines 48-52). Further included are ingredients such as foaming agent 4'-oxybenzene-sulfonylhydrazide per the "amine" of claim 1 and claim 7 (see col. 4, lines 8-14). The hygroscopic agents taught by Shigeta are the same as set forth by applicant, but it is unclear if the specific surface area is the same per claim 4. Shigeta does teach the particle size may be optimized (see col. 3, lines 11-21). Recitation of a newly disclosed property does not distinguish over a reference disclosure of the article or composition claims. *General Electric v. Jewe Incandescent Lamp Co.*, 67 USPQ 155. *Titanium Metal Corp. v. Banner*, 227 USPQ 773. Applicant bears responsibility for proving that reference composition does not possess the characteristics recited in the claims. *In re Fitzgerald*, 205 USPQ 597, *In re Best*, 195 USPQ 430. Furthermore, the experimental modification of this prior art in order to ascertain optimum operating conditions fails to render applicants' claims patentable in the absence of unexpected results. *In re Aller*, 105 USPQ 233. A prima facie case of obviousness may be rebutted where the results of the optimizing variable, which is known to be result-effective, are unexpectedly good. *In re Boesch and Slaney*, 205 USPQ 215. With regard to claim 5, the amount of desiccant

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to resin is 5 to 40 parts by weight (see col. 3, lines 22-25) and the foaming agent (hydrazide) may be included in as small an amount as 0.2 parts by weight of the resin (see col. 4, lines 14-17).

Specifically described polymer resins include polyolefins and polystyrene per claim 6 (see col. 2, lines 63-68). With regard to claim 9, the reference appears to disclose mixing the composition and heating it (see col. 4, lines 26-33). Furthermore, claim 9 is noted to be a product-by-process type of claim. With regard to claim 11, the reference does not mention the density of the article, but since the same materials within the same amounts are claimed it would appear that the reference article would have a similar density as claimed. Furthermore, the experimental modification of this prior art in order to ascertain optimum operating conditions fails to render applicant's claims patentable in the absence of unexpected results. *In re Aller*, 105 USPQ 233. A prima facie case of obviousness may be rebutted where the results of the optimizing variable, which is known to be result-effective, are unexpectedly good. *In re Boesch and Slaney*, 205 USPQ 215.

11. Claims 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shigeta (US 5,078,909) in view of Nikaido (US 5,300,858). Shigeta teaches a molded desiccant article for a container (see col. 5, lines 38-50 and col. 1, lines 13-34), but fails to specifically teach the desiccant material incorporated into an organic electroluminescent device. Nikaido teaches it is desirable to include a desiccant material in an EL panel in order to avoid degradation of the device (see figures and text). It would have been obvious to one of ordinary skill in the art to have incorporated the desiccant material taught by Shigeta into the EL devices taught by Nikaido, because one would expect the desiccant material to be similarly useful in removing moisture for the Nikaido devices.

*Conclusion*

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dawn Garrett whose telephone number is (571) 272-1523. The examiner can normally be reached Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached at (571) 272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Dawn Garrett  
Primary Examiner  
Art Unit 1774